

REMARKS

Claims 1-11 are pending in the present application.

Election/Restriction

The Examiner has required election in the present application between:

Group I, claims 1-3, 5, 6, 10 and 11, drawn to gene encoding a scytalone dehydratase, vectors, host cells and a kit comprising fragments of said gene;

Group II, claims 4 and 9, drawn to a scytalone dehydratase and a kit comprising said scytalone dehydratase; and

Group III, claims 7 and 8, drawn to a method for assessing sensitivity of a rice blast fungus to a scytalone dehydratase inhibitor.

Election with Traverse

For the purpose of examination of the present application, Applicants elect, with traverse, Group I, claims 1-3, 5, 6, 10 and 11. The basis for the traversal is as follows.

The Examiner states that Groups I-III do not relate to single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the Groups lack the same or corresponding special technical features (see page 2 of the Office Action). Specifically, the Examiner states that technical feature linking the 3 Groups is scytalone dehydratase, and this feature is disclosed in the cited Nakasako *et al.* (1998) and Motoyama *et al.* (1998) references polypeptide. Thus, it is asserted this feature is not a contribution over the prior art.

Applicants respectfully refer the Examiner to the International Search Report (filed with the Information Disclosure Statement of September 10, 2004), wherein the cited references are "A" references. Thus, the Examiner is incorrect in stating that the scytalone dehydratase makes no contribution over these cited references.

Further, the Examiner incorrectly holds that the three Groups of claims lack unity of invention as the Examiner's findings are in contrast to the International Preliminary Examination Report (filed by Applicants on January 31, 2005). Even more so, Applicants note the IPER's comments with respect to the same Nakasako *et al.* (1998) and Motoyama *et al.* (1998) reference wherein novelty, inventive step and industrial applicability are established.

Finally, should the PCT rules be cited and applied (Rule 13.1, 13.2), then the IPER results and findings by the International Bureau should also be followed. Applicants thus traverse the inconsistent application of the rules and findings.

Accordingly, for any and all of the reasons stated above, rejoinder of the Groups is warranted and respectfully requested.

Applicants also note paragraph 5, page 3 of the Office Action. Thus, appropriate rejoinder is respectfully requested once allowable subject matter is found.

An early and favorable action on the pending claims is respectfully requested.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Eugene T. Perez, Reg. No. 48,501,

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Reply to Office Action of October 23, 2006

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at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: November 17, 2006

Respectfully submitted,

By Gerald M. Murphy, Jr. #48,501

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